

REMARKS

The Examiner is thanked for the performance of a thorough search.

Applicants' note that the Office Action did not acknowledge that Claims 30-31 have been cancelled by the preliminary amendment filed February 28, 2006.

By this amendment, Claims 34-62, 65-66, 68, and 70 have been amended, and no claims added or cancelled. Hence, Claims 1-29, 32-62, and 65-70 are pending in this application.

FILED IDS HAVE NOT BEEN ACKNOWLEDGED

Applicants have not received an initialed form PTO-1449 acknowledging receipt and consideration of the Information Disclosure Statements filed on April 12, 2006 and May 8, 2006. Consequently, Applicants respectfully request receipt of an initialed form PTO-1449 acknowledging receipt and consideration of the Information Disclosure Statements filed on April 12, 2006 and May 8, 2006. As a convenience to the Examiner, copies of the Information Disclosure Statements filed on April 12, 2006 and May 8, 2006 accompany this response.

THE DRAWINGS ARE IN FULL CONFORMANCE WITH 37 CFR § 1.83

The Office Action stated:

The Examiner contends that the drawings submitted on September 17, 2003 are acceptable for examination proceedings, only. The drawings are difficult to read. (page 2).

The Applicants note that no explanation has been given as to why the drawings are allegedly difficult to read. For example, the Notice of Draftperson's Patent Drawing Review form PTO-948 does not accompany the Office Action. Further, the Office Action does not identify any particular drawing that is difficult to read, let alone any alleged defect that a

particular drawing possesses.

U.S. Patent No. 6,845,384 is a continuation-in-part of the present application. U.S. Patent No. 6,845,384 includes each and every drawing of the present application. As a result, the Patent Office has already indicated that the drawings contained in the present application conform to all applicable standards, as the drawings are included within an issued patent.

Consequently, Applicants respectfully submit that the drawings of the present application conform to all applicable standards (and as such are suitable for all purposes). If the Patent Office disagrees, the Patent Office is respectfully invited to identify the basis for such a belief.

CLAIMS 1-29, 32-62, AND 65-70 FULLY CONFORM TO 35 U.S.C. § 101

Claims 1-62 and 65-70 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Specifically, the Office Action alleges that Claims 1-62 and 65-70 are not directed towards a final result that is “useful, tangible, and concrete.”

The Office Action requested that the Applicants amend the pending claims to express recite the answers to the following questions:

What is the practical application?
What is the final result?
What is final result [sic] that is concrete, useful and tangible?

The Applicants respectfully declines the Office Actions’ invitation to amend the pending claims to answer the above questions, as there is no basis, either in law or in the Interim Guidelines for Examination of Patent Applications, to do so.

Instead, the standard to which the claims must conform is that the claims must be directed towards a useful, tangible, and concrete result. Thus, to be statutory under 35 U.S.C. § 101, the requirement is that the result of a claim must be useful, tangible, and concrete. In contrast to the

Office Action's request, there is no requirement that the "practical application, result, concrete, useful, and tangible limitations" be expressly featured in a claim for that claim to be statutory.

Each of the pending claims has a practical application. The pending claims are directed towards an approach for managing data in a multi-node system. One practical application, among many practical applications, of an approach of the pending claims is that the performance of a shared-nothing database system may be improved. Clearly, improving the performance of a system is a practical trait.

Each of the pending claims is directed towards a useful result. For a result to be useful, it must have utility. The approach of the pending claims may be used to improve the performance of a shared-nothing database system. Clearly, improving the performance of a system is a useful trait.

Each of the pending claims is directed towards a concrete result. For a result to be concrete, the result "must be substantially repeatable or the process must substantially produce the same result again." New Guidelines at 22. The approach of each pending claim may be reproduced and repeated as necessary or desired.

Each of the pending claims is directed towards a tangible result. Each pending claim features an approach that produces a tangible result within a system. For example, the approach of the pending claims may be used to improve the performance of a shared-nothing database system. Clearly, the performance of a system is a tangible trait.

With the exception of the requirement that the result of the invention be tangible, as discussed above, the Applicants are not aware of any other tangibility requirement relating to 35 U.S.C. § 101. The Patent Office is invited to identify any legal authority that supports the position that 35 U.S.C. § 101 includes a requirement that an embodiment of the invention be

tangible. It appears from a reading of the Office Action and the specification of the present application that the various examples of transmission media provided in the specification are considered to be intangible embodiments, while the examples of storage media, such as one or more hard disks, are considered to be tangible media. Modern computers are just as capable of reading instructions from transmission media as they are from storage media. For example, modern computers routinely include wireless interfaces that allow them to read instructions carried on wireless communications links. From the perspective of a computer, a transmission medium, such as a wireless communications link or an optical wave, is no less tangible than a storage medium, such as a hard disk. Certainly, these are media “capable of realizing the underlying functionality of the instructions.” It is therefore respectfully submitted that even if 35 U.S.C. § 101 is interpreted to include a tangibility requirement, that this requirement is satisfied by the pending claims.

Computer-Readable Medium Claims 34-62 and 65-66

Claims 34-62 and 65-66 were rejected for allegedly being directed to a non-statutory subject matter, specifically, a “computer readable medium.” The Office Action alleges that, in view of the inclusion of transmission media such as carrier waves in the definition of “computer readable medium” in the specification (pages 24-27), these claims are not limited to “media that the Office believes are capable of realizing the underlying functionality of the instructions.” Applicants note that this rejection is not supported by any legal requirement, but instead, is based on the Patent Office’s “belief.”

By this amendment, Claims 34-62 and 65-66 have been amended to recite “computer-readable storage medium.” The Patent Office issued over 5,000 patents that recite at least one

claim directed towards a computer-readable storage medium. For example, issued U.S. Patents 7,065,755, 7,065,740, and 7,065,715 each recite at least one claim directed towards a computer-readable storage medium. Moreover, a computer-readable storage medium is clearly an article of manufacture, which is one of the four statutory categories of patentable subject matter under 35 U.S.C. § 101.

For the foregoing reasons, withdrawal of the rejection of Claims 1-29, 32-62, and 65-70 under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter under 35 U.S.C. § 101 is respectfully requested.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any fee shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,
HICKMAN PALERMO TRUONG & BECKER LLP



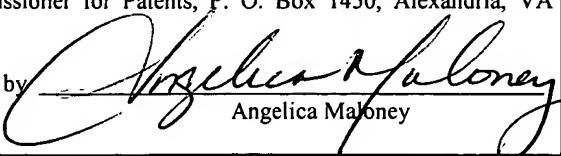
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop Amendment**, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on June 23, 2006

by 
Angelica Maloney